



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2011 REGULAR SESSION

HOUSE BILL NO. 310

AS ENACTED

FRIDAY, MARCH 4, 2011

RECEIVED AND FILED
DATE March 16, 2011
2:17pm

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SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to tax increment financing.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 65.7043 is amended to read as follows:

4 The purposes of KRS 65.7041 to 65.7083 are as follows:

5 (1) KRS 65.7047 provides authority for cities and counties to establish local
6 development areas for the development of previously undeveloped land within their
7 jurisdictional boundaries and to devote local resources to support the development
8 of projects in those local development areas. Local development areas established
9 under KRS 65.7047 and projects within local development areas shall not be
10 eligible for participation by the Commonwealth; and

11 (2) (a) KRS 65.7049, 65.7051, and 65.7053 provide a framework for cities and
12 counties:

13 1. To establish development areas for:

14 a. The redevelopment of previously developed land within their
15 jurisdictional boundaries; and

16 b. The development of previously undeveloped land, if:

17 i. The project proposed for the development area includes an
18 arena as part of the proposed development;

19 ii. The project is a mixed-use development located in a
20 university research park; or

21 iii. The project is a mixed-use development located within
22 three (3) miles of a military base that houses, deploys, or
23 employs any combination of at least twenty-five thousand
24 (25,000) military personnel, their families, military retirees,
25 or civilian employees; and

26 2. To devote local resources to providing redevelopment assistance and
27 supporting projects in those development areas.

(b) Projects within development areas established pursuant to KRS 65.7049, 65.7051, and 65.7053 shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by Subchapter 30 of KRS Chapter 154.

➔ Section 2. KRS 65.7045 is amended to read as follows:

As used in KRS 65.7041 to 65.7083:

(1) "Activation date" means the date established any time within a two (2) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The governing body may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension. To implement the activation date, the agency that is a party to the local participation agreement or the local development area agreement shall notify the governing body that created the development area or local development area;

(2) "Agency" means:

- (a) An urban renewal and community development agency established under KRS Chapter 99;
- (b) A development authority established under KRS Chapter 99;
- (c) A nonprofit corporation;
- (d) A housing authority established under KRS Chapter 80;
- (e) An air board established under KRS 183.132 to 183.160;
- (f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;
- (g) A riverport authority established under KRS 65.510 to 65.650; or
- (h) A designated department, division, or office of a city or county;

(3) "Arena" means a facility which serves primarily as a venue for athletic events, live entertainment, and other performances, and which has a permanent seating capacity

1 of at least five thousand (5,000);

2 (4) "Authority" means the Kentucky Economic Development Finance Authority
3 established by KRS 154.20-010;

4 (5) "Brownfield site" means real property, the expansion, redevelopment, or reuse of
5 which may be complicated by the presence or potential presence of a hazardous
6 substance, pollutant, or contaminant;

7 (6) "Capital investment" means:

8 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
9 materialmen in connection with the acquisition, construction, installation,
10 equipping, and rehabilitation of a project;

11 (b) The cost of acquiring land or rights in land within the development area on the
12 footprint of the project, and any cost incident thereto, including recording
13 fees;

14 (c) The cost of contract bonds and of insurance of all kinds that may be required
15 or necessary during the course of acquisition, construction, installation,
16 equipping, and rehabilitation of a project which is not paid by the contractor
17 or contractors or otherwise provided;

18 (d) All costs of architectural and engineering services, including test borings,
19 surveys, estimates, plans, specifications, preliminary investigations,
20 supervision of construction, and the performance of all the duties required by
21 or consequent upon the acquisition, construction, installation, equipping, and
22 rehabilitation of a project;

23 (e) All costs that are required to be paid under the terms of any contract for the
24 acquisition, construction, installation, equipping, and rehabilitation of a
25 project; and

26 (f) All other costs of a nature comparable to those described in this subsection;

27 (7) "City" means any city, consolidated local government, or urban-county government;

- 1 (8) "Commencement date" means:
 - 2 (a) The date on which a local development area agreement is executed; or
 - 3 (b) The date on which a local participation agreement is executed;
- 4 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 5 (10) "County" means any county, consolidated local government, charter county, unified
 - 6 local government, or urban-county government;
- 7 (11) "Debt charges" means the principal, including any mandatory sinking fund deposits,
 - 8 interest, and any redemption premium, payable on increment bonds as the payments
 - 9 come due and are payable and any charges related to the payment of the foregoing;
- 10 (12) "Development area" means an area established under KRS 65.7049, 65.7051, and
 - 11 65.7053;
- 12 (13) "Economic development projects" means projects which are approved for tax
 - 13 credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter
 - 14 154;
- 15 (14) "Establishment date" means the date on which a development area or a local
 - 16 development area is created. If the development area, local development area,
 - 17 development area plan, or local development area plan is modified or amended
 - 18 subsequent to the original establishment date, the modifications or amendments
 - 19 shall not extend the existence of the development area or local development area
 - 20 beyond what would be permitted under KRS 65.7041 to 65.7083 from the original
 - 21 establishment date;
- 22 (15) "Governing body" means the body possessing legislative authority in a city or
 - 23 county;
- 24 (16) "Increment bonds" means bonds and notes issued for the purpose of paying the costs
 - 25 of one (1) or more projects, or grant or loan programs as described in subsection
 - 26 (30)~~[(29)]~~(c) of this section, in a development area or a local development area;
- 27 (17) "Incremental revenues" means the amount of revenues received by a taxing district,

1 as determined by subtracting old revenues from new revenues in a calendar year
 2 with respect to a development area, a project within a development area, or a local
 3 development area;

4 (18) "Issuer" means a city, county, or agency issuing increment bonds;

5 (19) "Local development area" means a development area established under KRS
 6 65.7047;

7 (20) "Local development area agreement" means an agreement entered into under KRS
 8 65.7047;

9 (21) "Local participation agreement" means the agreement entered into under KRS
 10 65.7063;

11 (22) "Local tax revenues" means:

12 (a) Revenues derived by a city or county from one (1) or more of the following
 13 sources:

- 14 1. Real property ad valorem taxes;
- 15 2. Occupational license taxes, excluding occupational license taxes that
 16 have already been pledged to support an economic development project
 17 within the development area; and
- 18 3. The occupational license fee permitted by KRS 65.7056; and

19 (b) Revenues derived by any taxing district other than school districts or fire
 20 districts from real property ad valorem taxes;

21 (23) "Low-income household" means a household in which gross income is no more
 22 than two hundred percent (200%) of the poverty guidelines updated periodically in
 23 the Federal Register by the United States Department of Health and Human
 24 Services under the authority of 42 U.S.C. sec. 9902(2);

25 (24) **"Mixed-use" has the same meaning as in KRS 154.30-060;**

26 **(25)** "New revenues" means the amount of local tax revenues received by a taxing
 27 district with respect to a development area or a local development area in any

1 calendar year beginning with the year in which the activation date occurred;

2 ~~(26)~~~~{(25)}~~ "Old revenues" means the amount of local tax revenues received by a taxing
 3 district with respect to a development area or a local development area during the
 4 last calendar year prior to the commencement date. If the governing body
 5 determines that the amount of local tax revenues received during the last calendar
 6 year prior to the commencement date does not represent a true and accurate
 7 depiction of revenues, the governing body may consider revenues for a period of no
 8 longer than three (3) calendar years prior to the commencement date, so as to
 9 determine a fair representation of local tax revenues;

10 ~~(27)~~~~{(26)}~~ "Outstanding" means increment bonds that have been issued, delivered, and
 11 paid for by the purchaser, except any of the following:

- 12 (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon
 13 payment or redemption;
- 14 (b) Increment bonds in replacement of which or in exchange for which other
 15 increment bonds have been issued; or
- 16 (c) Increment bonds for the payment, redemption, or purchase for cancellation
 17 prior to maturity, of which sufficient moneys or investments, in accordance
 18 with the ordinance or other proceedings or any applicable law, by mandatory
 19 sinking fund redemption requirements, or otherwise, have been deposited, and
 20 credited in a sinking fund or with a trustee or paying or escrow agent, whether
 21 at or prior to their maturity or redemption, and, in the case of increment bonds
 22 to be redeemed prior to their stated maturity, notice of redemption has been
 23 given or satisfactory arrangements have been made for giving notice of that
 24 redemption, or waiver of that notice by or on behalf of the affected bond
 25 holders has been filed with the issuer or its agent;

26 ~~(28)~~~~{(27)}~~ "Planning unit" means a planning commission established pursuant to KRS
 27 Chapter 100;

1 ~~(29)~~~~[(28)]~~ "Project" means any property, asset, or improvement located in a development
 2 area or a local development area and certified by the governing body as:

- 3 (a) Being for a public purpose; and
- 4 (b) Being for the development of facilities for residential, commercial, industrial,
 5 public, recreational, or other uses, or for open space, including the
 6 development, rehabilitation, renovation, installation, improvement,
 7 enlargement, or extension of real estate and buildings; and
- 8 (c) Contributing to economic development or tourism;

9 ~~(30)~~~~[(29)]~~ "Redevelopment assistance," as utilized within a development area, includes
 10 the following:

- 11 (a) Technical assistance programs to provide information and guidance to
 12 existing, new, and potential businesses and residences;
- 13 (b) Programs to market and promote the development area and attract new
 14 businesses and residents;
- 15 (c) Grant and loan programs to encourage the construction or rehabilitation of
 16 residential, commercial, and industrial buildings; improve the appearance of
 17 building facades and signage; and stimulate business start-ups and expansions;
- 18 (d) Programs to obtain a reduced interest rate, down payment, or other improved
 19 terms for loans made by private, for-profit, or nonprofit lenders to encourage
 20 the construction or rehabilitation of residential, commercial, and industrial
 21 buildings; improve the appearance of building facades and signage; and
 22 stimulate business start-ups and expansions;
- 23 (e) Local capital improvements, including but not limited to the installation,
 24 construction, or reconstruction of streets, lighting, pedestrian amenities, public
 25 utilities, public transportation facilities, public parking, parks, playgrounds,
 26 recreational facilities, and public buildings and facilities;
- 27 (f) Improved or increased provision of public services, including but not limited

1 to police or security patrols, solid waste management, and street cleaning;

2 (g) Provision of technical, financial, or other assistance in connection with:

3 1. Applications to the Energy and Environment Cabinet for a brownfields
4 assessment or a No Further Remediation Letter issued pursuant to KRS
5 224.01-450; or

6 2. Site remediation by means of the Voluntary Environmental Remediation
7 Program to remove environmental contamination in the development
8 area, or lots or parcels within it, pursuant to KRS 224.01-510 to 224.01-
9 532; and

10 (h) Direct development by a city, county, or agency of real property acquired by
11 the city, county, or agency. Direct development may include one (1) or more
12 of the following:

13 1. Assembly and replatting of lots or parcels;

14 2. Rehabilitation of existing structures and improvements;

15 3. Demolition of structures and improvements and construction of new
16 structures and improvements;

17 4. Programs of temporary or permanent relocation assistance for businesses
18 and residents;

19 5. The sale, lease, donation, or other permanent or temporary transfer of
20 real property to public agencies, persons, and entities both for profit and
21 nonprofit; and

22 6. The acquisition and construction of projects;

23 ~~(31)~~[(30)] "Service payment agreement" means an agreement between a city, county, or
24 issuer of increment bonds or other obligations and any person, whereby the person
25 agrees to guarantee the receipt of incremental revenues, or the payment of debt
26 charges, or any portion thereof, on increment bonds or other obligations issued by
27 the city, county, or issuer;

1 ~~(32)~~~~{(31)}~~ "Special fund" means a special fund created under KRS 65.7061 in which all
 2 incremental revenues shall be deposited;

3 ~~(33)~~~~{(32)}~~ "Taxing district" means any city, county, or special taxing district other than
 4 school districts and fire districts;

5 ~~(34)~~~~{(33)}~~ "Tax incentive agreement" means an agreement entered into under KRS
 6 154.30-070; ~~{and}~~

7 ~~(35)~~~~{(34)}~~ "Termination date" means:

8 (a) For a development area, a date established by the ordinance creating the
 9 development area that is no more than twenty (20) years from the
 10 establishment date. If a tax incentive agreement for a project within a
 11 development area or a local participation agreement relating to the
 12 development area has a termination date that is later than the termination date
 13 established in the ordinance, the termination date for the development area
 14 shall be extended to the termination date of the tax incentive agreement, or
 15 local participation agreement. However, the termination date for the
 16 development area shall in no event be more than forty (40) years from the
 17 establishment date;

18 (b) For a local development area, a date established by the ordinance creating the
 19 local development area that is no more than twenty (20) years from the
 20 establishment date, provided that if a local development area agreement
 21 relating to the local development area has a termination date that is later than
 22 the termination date established in the ordinance, the termination date for the
 23 local development area shall be extended to the termination date of the local
 24 development area agreement;

25 (c) For a local participation agreement, a date that is no more than twenty (20)
 26 years from the activation date. However, the termination date for a local
 27 participation agreement shall in no event be more than forty (40) years from

1 the establishment date of the development area to which the local participation
2 agreement relates; and

- 3 (d) For a local development area agreement, a date that is no more than twenty
4 (20) years from the activation date. However, the termination date for a local
5 development area agreement shall in no event be more than forty (40) years
6 from the establishment date of the local development area to which the
7 development area agreement relates; and

8 (36) "University research park" means land owned by a public university that has
9 been designated by the public university as being primarily for the development of
10 projects and facilities to support high-tech, pharmaceutical, laboratory, and other
11 research-based businesses, including projects and facilities to support and
12 complement the development of high-tech, pharmaceutical, laboratory, and other
13 research-based businesses.

14 ➔Section 3. KRS 65.7049 is amended to read as follows:

15 Any city or county may establish a development area pursuant to this section, KRS{
16 ~~65.7049,~~ 65.7051, and 65.7053 to encourage investment and reinvestment in and
17 development, use, and reuse of areas of the city or county under the following conditions:

- 18 (1) The area shall be contiguous and shall be no more than three (3) square miles;
19 (2) The establishment or expansion of the development area shall not cause the
20 assessed value of taxable real property within all development areas and local
21 development areas of the city or county establishing the development area to exceed
22 twenty percent (20%) of the assessed value of all taxable real property within its
23 jurisdiction. For the purpose of determining whether the twenty percent (20%)
24 threshold has been met, the assessed value of taxable real property within all of the
25 development areas and local development areas shall be valued as of the
26 establishment date;
27 (3) The governing body of the city or county shall determine that the development area

1 either:

2 (a) Has two (2) or more of the following conditions:

3 1.{{(a)}} Substantial loss of residential, commercial, or industrial activity or
4 use;

5 2.{{(b)}} Forty percent (40%) or more of the households are low-income
6 households;

7 3.{{(c)}} More than fifty percent (50%) of residential, commercial, or
8 industrial structures are deteriorating or deteriorated;

9 4.{{(d)}} Substantial abandonment of residential, commercial, or industrial
10 structures;

11 5.{{(e)}} Substantial presence of environmentally contaminated land;

12 6.{{(f)}} Inadequate public improvements or substantial deterioration in
13 public infrastructure; or

14 7.{{(g)}} Any combination of factors that substantially impairs or arrests the
15 growth and economic development of the city or county; impedes the
16 provision of adequate housing; impedes the development of commercial
17 or industrial property; or adversely affects public health, safety, or
18 general welfare due to the development area's present condition and use;

19 or

20 (b) The project is a mixed-use development:

21 1. Located in a university research park; or

22 2. Located within three (3) miles of a military base that houses, deploys,
23 or employs any combination of at least twenty-five thousand (25,000)
24 military personnel, their families, military retirees, or civilian
25 employees; and

26 (4) The governing body of the city or county shall find that all of the following are true
27 for projects meeting the requirements of paragraph (a) of subsection (3) of this

1 section:

2 (a) That the development area is not reasonably expected to be developed without
3 public assistance. This finding shall be supported by specific reasons and
4 supporting facts, including a clear demonstration of the financial need for
5 public assistance; and

6 (b) That the public benefits of the development area justify the public costs
7 proposed. This finding shall be supported by specific data and figures
8 demonstrating that the projected benefits outweigh the anticipated costs and
9 shall take into account the positive and negative effects of investment in the
10 development on existing businesses and residents within the community as a
11 whole; and

12 (c) 1. That the area immediately surrounding the development area has not
13 been subject to growth and development through investment by private
14 enterprise; or

15 2. If the area immediately surrounding the development area has been
16 subject to growth and development through investment by private
17 enterprise, the identification of special circumstances within the
18 development area that would prevent its development without public
19 assistance.

20 ➔Section 4. KRS 154.30-060 is amended to read as follows:

21 (1) The Commonwealth Participation Program for Mixed-Use Redevelopment in
22 Blighted Urban Areas is hereby established.

23 (2) State participation under this program shall be limited to the support of approved
24 public infrastructure costs and costs associated with land preparation, demolition,
25 and clearance determined to be necessary to support private investment or private
26 development projects that benefit the public, where project economics are unable to
27 support or secure necessary financing to undertake the public improvements, land

1 preparation, demolition, and clearance.

2 (3) As used in this section:

3 (a) "Mixed-use" means a project that includes at least two (2) qualified uses;

4 (b) "Qualified use" means:

5 1. Retail;

6 2. Residential;

7 3. Office;

8 4. Restaurant; or

9 5. Hospitality.

10 To be a qualified use, the use must comprise at least twenty percent (20%) of
11 the total finished square footage of the proposed project or represent twenty
12 percent (20%) of the total capital investment; and

13 (c) "Retail" means an establishment predominantly engaged in the sale of tangible
14 personal property subject to the tax imposed by KRS Chapter 139, but shall
15 not include restaurants.

16 (4) To be considered for state participation under this program, a project shall:

17 (a) Be located in an area that has three (3) or more of the conditions listed in KRS
18 65.7049(3)(a), or be a project described in subsection (3)(b) of Section 3 of
19 this Act;

20 (b) Be a mixed-use project;

21 (c) Represent new economic activity in the Commonwealth;

22 (d) Result in a capital investment between twenty million dollars (\$20,000,000)
23 and two hundred million dollars (\$200,000,000);

24 (e) Not include any retail establishment that exceeds twenty thousand (20,000)
25 square feet of finished square footage;

26 (f) Include pedestrian amenities and public space; and

27 (g) Result in a net positive economic impact to the Commonwealth, taking into

1 consideration any substantial adverse impact on existing Commonwealth
2 businesses. The net positive impact shall be certified to the authority as
3 required by KRS 154.30-030(6)(b).

4 (5) The following costs may be recovered pursuant to this section:

5 (a) Up to one hundred percent (100%) of approved public infrastructure costs;
6 and

7 (b) Up to one hundred percent (100%) of expenses for land preparation,
8 demolition, and clearance necessary for the development to occur.

9 (6) The commission shall review the application, the certification required by KRS
10 154.30-030, and supporting information as provided in KRS 154.30-030.

11 (7) The authority shall specifically identify the state taxes from which incremental
12 revenues will be pledged. The authority may pledge up to eighty percent (80%) of
13 the incremental revenues from the identified state tax revenues from the footprint of
14 the project, provided that the maximum amount of incremental revenues that may
15 be pledged for a project during the term of the tax incentive agreement from all
16 approved state taxes shall not exceed the costs and expenses determined under
17 subsection (5) of this section.

18 (8) As part of the approval process, the authority shall determine the following:

19 (a) The footprint of the project;

20 (b) That the proposed project meets the requirements established by subsection
21 (4) of this section;

22 (c) The maximum amount of approved public infrastructure costs and expenses
23 for land preparation, demolition, and clearance;

24 (d) That the local revenues pledged to support the public infrastructure of the
25 project and local revenues pledged to support the overall project are of a
26 sufficient amount to warrant participation of the Commonwealth in the
27 project;

- 1 (e) The termination date of the tax incentive agreement; and
- 2 (f) Any adjustments to be made to old revenues, in determining incremental
- 3 revenues during each year of the term of the tax incentive agreement.

4 (9) If state income taxes or local occupational licenses taxes are included for a project
 5 that includes office space, the authority shall consider the impact of pledging these
 6 taxes on the ability to utilize other economic development projects at a later date.

7 (10) The pledge of state incremental tax revenues of the Commonwealth by the authority
 8 shall be implemented through the execution of a tax incentive agreement between
 9 the Commonwealth and the agency, city, or county in accordance with KRS 154.30-
 10 070.

11 ➔Section 5. KRS 65.7051 is amended to read as follows:

12 (1) Any city or county seeking to establish a development area shall adopt a
 13 development plan. The development plan may be developed by a city, a county, or a
 14 city and county jointly, or may be proposed by an agency or by a private entity. The
 15 plan shall include the following:

16 (a) Assurances that the proposed development area meets the requirements of
 17 KRS 65.7049(1) and (2), identification of the conditions in the proposed
 18 development area that meet the criteria set forth in KRS 65.7049(3), and, if
 19 applicable, confirmation that the requirements of KRS 65.7049(4) have been
 20 met;

21 (b) A detailed description of the existing uses and conditions of real property in
 22 the development area;

23 (c) A map showing the boundaries of the proposed development area, a legal
 24 description of the development area, and geographic reference points;

25 (d) A map showing proposed improvements and uses therein, including the
 26 identification of any proposed projects, along with a narrative description of
 27 the proposed improvements, projects, and uses within the development area;

- 1 (e) A description of the redevelopment assistance proposed to be employed in the
2 development area, including the manner and location of such assistance;
- 3 (f) A detailed financial plan containing projections of the cost of the proposed
4 redevelopment assistance to be provided, proposed projects to be funded,
5 proposed sources of funding for these costs, projected incremental revenues,
6 and the projected time frame during which financial obligations will be
7 incurred;
- 8 (g) Proposed changes of any zoning ordinance, comprehensive plan, master plan,
9 map, building code, or ordinance anticipated to be required to implement the
10 development plan; and
- 11 (h) If the city or county is a member of a planning unit, certification of review by
12 the planning commission for compliance with the comprehensive plan of the
13 planning unit pursuant to KRS Chapter 100 after any necessary changes
14 identified in paragraph (g) of this subsection are made.
- 15 (2) Prior to adoption of a development plan, the city or county shall hold a public
16 hearing to solicit input from the public regarding the plan. The city or county shall
17 advertise the hearing by causing to be published, in accordance with KRS 424.130,
18 notice of the time, place, and purpose of the hearing and a general description of the
19 boundaries of the proposed development area. The notice shall include a summary
20 of the redevelopment assistance proposed to be employed, identification of projects
21 proposed for the development area, and a statement that a copy of the development
22 plan is available for inspection at the business office of the city or county.
- 23 (3) Prior to publication of a hearing notice pursuant to subsection (2) of this section, a
24 copy of the development plan shall be filed with the city clerk of each city having
25 jurisdiction within the proposed development area, and with the county fiscal court.
- 26 (4) A city or county having jurisdiction within the proposed development area not
27 initially participating in a proposed development plan shall have the opportunity to

determine whether it will participate in the plan. The city or county shall determine and notify the entity proposing the development plan in writing within thirty (30) days after the public hearing whether it will participate in the plan.

- (5) At the end of the time period established in subsection (4) of this section, the city or county may adopt an ordinance establishing a development area in accordance with KRS 65.7053.

➔ Section 6. KRS 65.7053 is amended to read as follows:

- (1) An ordinance establishing a development area shall include the following provisions:

- (a) A legal description of the boundaries of the development area, and geographic reference points;
- (b) The establishment date;
- (c) The termination date, including a provision that allows the termination date to be extended as provided in KRS 65.7045~~(34)~~(35);
- (d) A name for the development area for identification purposes;
- (e) A finding that the conditions in the development area meet the criteria described in KRS 65.7049;
- (f) A finding supporting the need to employ redevelopment assistance in the development area;
- (g) A provision adopting the development plan required by KRS 65.7051(1);
- (h) Approval of any agreements relating to the development area, including any local participation agreements;
- (i) A provision establishing a special fund for the development area or any project within the development area;
- (j) A requirement that any entity other than the governing body that receives financial assistance under the development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the

- 1 governing body;
- 2 (k) A provision for periodic analysis and review by the governing body of the
- 3 development activity in the development area, a review of the progress in
- 4 meeting the stated goals of the development area, and a requirement that the
- 5 review and analysis be forwarded to the authority if the development activity
- 6 includes projects subject to a tax incentive agreement;
- 7 (l) Designation of the agency or agencies responsible for oversight,
- 8 administration, and implementation of the development ordinance; and
- 9 (m) Any other provisions, findings, limitations, rules, or procedures regarding the
- 10 proposed development area or a project within the development area and its
- 11 establishment or maintenance deemed necessary by the city or county.
- 12 (2) An ordinance establishing a development area may designate an existing agency to
- 13 oversee and administer implementation of a development area ordinance or a
- 14 portion thereof.
- 15 (3) Unless the ordinance establishing a development area requires an earlier date, a
- 16 development area shall cease to exist on the termination date.
- 17 ➔Section 7. KRS 154.30-010 is amended to read as follows:
- 18 As used in this subchapter:
- 19 (1) "Activation date" means:
- 20 (a) For all projects except those described in paragraph (b) of this subsection, the
- 21 date established any time within a two (2) year period after the
- 22 commencement date. The Commonwealth may extend the two (2) year period
- 23 to no more than four (4) years upon written application by the agency
- 24 requesting the extension; and
- 25 (b) For signature projects approved under KRS 154.30-050(2)(a), the date
- 26 established any time within a ten (10)~~five (5)~~ year period after the
- 27 commencement date.

1 The activation date is the date on which the time period for the pledge of
 2 incremental revenues shall commence. To implement the activation date, the agency
 3 that is a party to the tax incentive agreement shall notify the office;

4 (2) "Agency" means:

5 (a) An urban renewal and community development agency established under
 6 KRS Chapter 99;

7 (b) A development authority established under KRS Chapter 99;

8 (c) A nonprofit corporation;

9 (d) A housing authority established under KRS Chapter 80;

10 (e) An air board established under KRS 183.132 to 183.160;

11 (f) A local industrial development authority established under KRS 154.50-301
 12 to 154.50-346;

13 (g) A riverport authority established under KRS 65.510 to 65.650; or

14 (h) A designated department, division, or office of a city or county;

15 (3) "Approved public infrastructure costs" means costs associated with the acquisition,
 16 installation, construction, or reconstruction of public works, public improvements,
 17 and public buildings, including planning and design costs associated with the
 18 development of such public amenities. "Approved public infrastructure costs"
 19 includes but is not limited to costs incurred for the following:

20 (a) Land preparation, including demolition and clearance work;

21 (b) Buildings;

22 (c) Sewers and storm drainage;

23 (d) Curbs, sidewalks, promenades, and pedways;

24 (e) Roads;

25 (f) Street lighting;

26 (g) The provision of utilities;

27 (h) Environmental remediation;

- 1 (i) Floodwalls and floodgates;
- 2 (j) Public spaces or parks;
- 3 (k) Parking;
- 4 (l) Easements and rights-of-way;
- 5 (m) Transportation facilities;
- 6 (n) Public landings;
- 7 (o) Amenities, such as fountains, benches, and sculptures; and
- 8 (p) Riverbank modifications and improvements;
- 9 (4) "Approved signature project costs" means:
 - 10 (a) The acquisition of land for portions of the project that are for infrastructure;
 - 11 and
 - 12 (b) Costs associated with the acquisition, installation, development, construction,
 - 13 improvement, or reconstruction of infrastructure, including planning and
 - 14 design costs associated with the development of infrastructure, including but
 - 15 not limited to parking structures, including portions of parking structures that
 - 16 serve as platforms to support development above;
 - 17 that have been determined by the commission to represent a unique challenge in the
 - 18 financing of a project such that the project could not be developed without
 - 19 incentives intended by this chapter to foster economic development;
- 20 (5) "Authority" means the Kentucky Economic Development Finance Authority
- 21 established by KRS 154.20-010;
- 22 (6) "Capital investment" means:
 - 23 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
 - 24 materialmen in connection with the acquisition, construction, installation,
 - 25 equipping, and rehabilitation of a project;
 - 26 (b) The cost of acquiring land or rights in land within the development area on the
 - 27 footprint of the project, and any cost incident thereto, including recording

- 1 fees;
- 2 (c) The cost of contract bonds and of insurance of all kinds that may be required
3 or necessary during the course of acquisition, construction, installation,
4 equipping, and rehabilitation of a project which is not paid by the contractor
5 or contractors or otherwise provided;
- 6 (d) All costs of architectural and engineering services, including test borings,
7 surveys, estimates, plans, specifications, preliminary investigations,
8 supervision of construction, and the performance of all the duties required by
9 or consequent upon the acquisition, construction, installation, equipping, and
10 rehabilitation of a project;
- 11 (e) All costs that are required to be paid under the terms of any contract for the
12 acquisition, construction, installation, equipping, and rehabilitation of a
13 project; and
- 14 (f) All other costs of a nature comparable to those described in this subsection;
- 15 (7) "City" means any city, consolidated local government, or urban-county government;
- 16 (8) "Commencement date" means the date on which a tax incentive agreement is
17 executed;
- 18 (9) "Commonwealth" means the Commonwealth of Kentucky;
- 19 (10) "County" means any county, consolidated local government, charter county, unified
20 local government, or urban-county government;
- 21 (11) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban
22 consumers, all items, base year computed for 1982 to 1984 equals one hundred
23 (100), published by the United States Department of Labor, Bureau of Labor
24 Statistics;
- 25 (12) "Department" means the Department of Revenue;
- 26 (13) "Development area" means an area established under KRS 65.7049, 65.7051, and
27 65.7053;

- 1 (14) "Economic development projects" means projects which are approved for tax
2 credits under Subchapter 20, 22, 23, 24, 25, 26, 27, 28, 34, or 48 of KRS Chapter
3 154;
- 4 (15) "Financing costs" means principal, interest, costs of issuance, debt service reserve
5 requirements, underwriting discount, costs of credit enhancement or liquidity
6 instruments, and other costs directly related to the issuance of bonds or debt for
7 approved public infrastructure costs or approved signature project costs for projects
8 approved pursuant to KRS 154.30-050;
- 9 (16) "Footprint" means the actual perimeter of a discrete, identified project within a
10 development area. The footprint shall not include any portion of a development area
11 outside the area for which actual capital investments are made;
- 12 (17) "Governing body" means the body possessing legislative authority in a city or
13 county;
- 14 (18) "Increment bonds" means bonds and notes issued for the purpose of paying the costs
15 of one (1) or more projects;
- 16 (19) "Incremental revenues" means:
- 17 (a) The amount of revenues received by a taxing district, as determined by
18 subtracting old revenues from new revenues in a calendar year with respect to
19 a development area, or a project within a development area; or
- 20 (b) The amount of revenues received by the Commonwealth as determined by
21 subtracting old revenues from new revenues in a calendar year with respect to
22 the footprint;
- 23 (20) "Local participation agreement" means the agreement entered into under KRS
24 65.7063;
- 25 (21) "Local tax revenues" has the same meaning as in KRS 65.7045;
- 26 (22) "New revenues" means:
- 27 (a) The amount of local tax revenues received by a taxing district with respect to

1 a development area in any calendar year beginning with the year in which the
2 activation date occurred; or

3 (b) The amount of state tax revenues received by the Commonwealth with respect
4 to the footprint in any calendar year beginning with the year in which the
5 activation date occurred;

6 (23) "Old revenues" means:

7 (a) The amount of local tax revenues received by a taxing district with respect to
8 a development area during the last calendar year prior to the commencement
9 date; or

10 (b) 1. The amount of state tax revenues received by the Commonwealth within
11 the footprint during the last calendar year prior to the commencement
12 date. If the authority determines that the amount of state tax revenues
13 received during the last calendar year prior to the commencement date
14 does not represent a true and accurate depiction of revenues, the
15 authority may consider revenues for a period of no longer than three (3)
16 calendar years prior to the commencement date, so as to determine a fair
17 representation of state tax revenues. The amount determined by the
18 authority shall be specified in the tax incentive agreement. If state tax
19 revenues were derived from the footprint prior to the commencement
20 date, old revenues shall increase each calendar year by:

21 a. The percentage increase, if any, of the CPI or a comparable index;
22 or

23 b. An alternative percentage increase that is determined to be
24 appropriate by the authority.

25 The method for increasing old revenues shall be set forth in the tax
26 incentive agreement;

27 2. If state revenues were derived from the footprint prior to the

1 commencement date, the calculation of incremental revenues shall be
2 based on the value of old revenues as increased using the method
3 prescribed in subparagraph 1. of this paragraph to reflect the same
4 calendar year as is used in the determination of new revenues.

5 (24) "Outstanding" means increment bonds that have been issued, delivered, and paid for
6 by the purchaser, except any of the following:

- 7 (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon
8 payment or redemption;
- 9 (b) Increment bonds in replacement of which or in exchange for which other
10 increment bonds have been issued; or
- 11 (c) Increment bonds for the payment, redemption, or purchase for cancellation
12 prior to maturity, of which sufficient moneys or investments, in accordance
13 with the ordinance or other proceedings or any applicable law, by mandatory
14 sinking fund redemption requirements, or otherwise, have been deposited, and
15 credited in a sinking fund or with a trustee or paying or escrow agent, whether
16 at or prior to their maturity or redemption, and, in the case of increment bonds
17 to be redeemed prior to their stated maturity, notice of redemption has been
18 given or satisfactory arrangements have been made for giving notice of that
19 redemption, or waiver of that notice by or on behalf of the affected bond
20 holders has been filed with the issuer or its agent;

21 (25) "Project" means any property, asset, or improvement located in a development area
22 and certified by the governing body as:

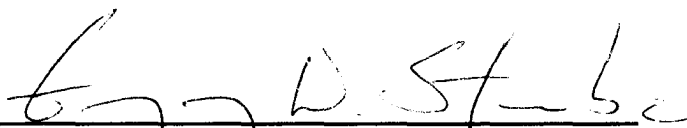
- 23 (a) Being for a public purpose; and
- 24 (b) Being for the development of facilities for residential, commercial, industrial,
25 public, recreational, or other uses, or for open space, including the
26 development, rehabilitation, renovation, installation, improvement,
27 enlargement, or extension of real estate and buildings; and

- 1 (c) Contributing to economic development or tourism; and
- 2 (d) Meeting the additional requirements established by KRS 154.30-040, 154.30-
- 3 050, or 154.30-060;
- 4 (26) "Signature project" means a project approved under KRS 154.30-050;
- 5 (27) "State real property ad valorem tax" means real property ad valorem taxes levied
- 6 under KRS 132.020(1)(a);
- 7 (28) "State tax revenues" means revenues received by the Commonwealth from one (1)
- 8 or more of the following sources:
- 9 (a) State real property ad valorem taxes;
- 10 (b) Individual income taxes levied under KRS 141.020, other than individual
- 11 income taxes that have already been pledged to support an economic
- 12 development project within the development area;
- 13 (c) Corporation income taxes levied under KRS 141.040, other than corporation
- 14 income taxes that have already been pledged to support an economic
- 15 development project within the development area;
- 16 (d) Limited liability entity taxes levied under KRS 141.0401, other than limited
- 17 liability entity taxes that have already been pledged to support an economic
- 18 development project within the development area; and
- 19 (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged
- 20 for:
- 21 1. Approved tourism attraction projects, as defined in KRS 148.851, within
- 22 the development area; and
- 23 2. Projects which are approved for sales tax refunds under Subchapter 20
- 24 of KRS Chapter 154 within the development area;
- 25 (29) "Tax incentive agreement" means an agreement entered into in accordance with
- 26 KRS 154.30-070; and
- 27 (30) "Termination date" means:

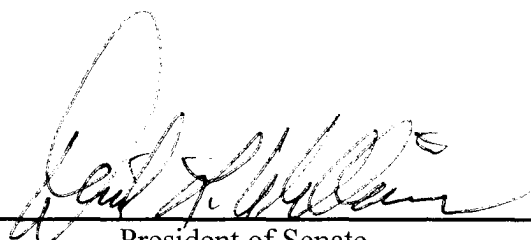
1 (a) For a tax incentive agreement satisfying the requirements of KRS 154.30-040
2 or 154.30-060, a date established by the tax incentive agreement that is no
3 more than twenty (20) years from the activation date. However, the
4 termination date for a tax incentive agreement shall in no event be more than
5 forty (40) years from the establishment date of the development area to which
6 the tax incentive agreement relates; and

7 (b) For a project grant agreement satisfying the requirements of KRS 154.30-050,
8 a date established by the tax incentive agreement that is no more than thirty
9 (30) years from the activation date. However, the termination date for a tax
10 incentive agreement shall in no event be more than forty (40) years from the
11 establishment date of the development area to which the tax incentive
12 agreement relates.

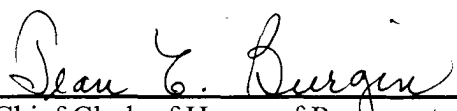
13 ➔Section 8. Notwithstanding KRS 65.7044(6), the provisions of Section 7 of this
14 Act shall apply retroactively and any agreements entered into prior to the effective date of
15 this Act, for projects approved under KRS 154.30-050(2)(a) that have not been activated
16 as of the effective date of this Act, shall be amended to reflect be revised activation date
17 provided for in Section 7 of this Act.



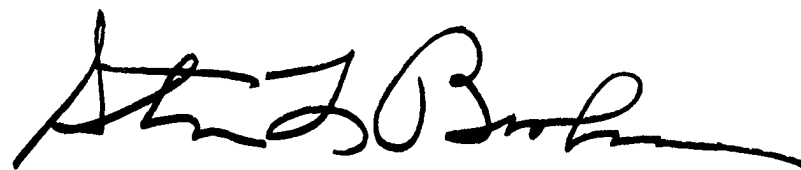
Speaker-House of Representatives



President of Senate

Attest: 

Chief Clerk of House of Representatives

Approved 

Governor

Date 3-16-11